

REMARKS

This paper is presented in response to the Final Office Action. By this paper, claims 25-31 are currently amended and claims 34-36 are added. Claims 6 and 14-24 were canceled in a previous paper, and claims 12 and 13 have been withdrawn by the Examiner as being directed to an unelected invention. Claims 1-5, 7-11, and 25-36 are now pending in view of the aforementioned cancellations.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

A. Claim Amendments and/or Cancellations

With particular reference to the claim amendments, Applicant notes that claims 25-31 are currently amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicant, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicant hereby reserves the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicant submits that neither the claim cancellations made herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicant in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

B. Remarks

Applicant respectfully notes that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicant has broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicant, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicant notes, finally, that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and purported prior art status of the cited references at any appropriate time.

II. Claim Rejections

A. Rejection Under 35 U.S.C. §102

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (c) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure* (“MPEP”) § 2131.

Turning now to the rejections, the Examiner has rejected claims 1-4, 7-8, 11, and 25-29 under 35 U.S.C. § 102(b) as purportedly anticipated by US 4,330,219 to Miyasaka et al. (“*Miyasaka*”). For at least the reasons set forth below, Applicant respectfully disagrees and submits that the rejection should be withdrawn.

With respect to claim 1, as well as corresponding dependent claims 2-4, 7-8, and 11, the Examiner has alleged that *Miyasaka* discloses “...a housing (figure 2); an upper body capable of being positioned at a range of angles relative to the housing (figure 2, reference 1) [and] ... support block (figure 2, reference 12) connected to the housing...” While the Examiner has failed to specify which component(s) of *Miyasaka* purportedly correspond to the claimed “housing,” the following discussion reflects the assumption of the Applicant that it is the view of the Examiner that reference 4 of *Miyasaka* corresponds to the claimed “housing,” inasmuch as Figures 3 and 4 of *Miyasaka* suggest that the “upper body 1” (as characterized by the Examiner) is movable relative to reference 4 of *Miyasaka*. See *Final Office Action* at 2. If the assumption of the Applicant with respect to the position of the Examiner concerning the claimed “housing” is incorrect, Applicant respectfully requests that the Examiner provide suitable clarification.

With the aforementioned characterization in mind, it is clear that the Examiner has failed to establish that *Miyasaka* anticipates claim 1. In particular, and as noted above, the Examiner has asserted that the “support block 12” of *Miyasaka* is connected to the “housing” (4). However, inspection of Figure 2 of *Miyasaka* readily reveals that no such relationship is present. Moreover, *Miyasaka* confirms this

understanding, stating that “...a balance mechanism guide 12 is secured to an inner surface of a side wall of the cover hood 1 [characterized as the “upper body” by the Examiner] by welding or screws...” *Col. 1, lines 44-46. Emphasis added.* Thus, the characterization advanced by the Examiner plainly contradicts the disclosure of *Miyasaka*.

In view of the foregoing, Applicant submits that the Examiner has failed to establish that *Miyasaka* anticipates claims 1-4, 7-8, 11 at least because the Examiner has not shown that the identical invention is shown in as complete detail in *Miyasaka* is contained in the claims, and because the Examiner has not shown that the elements must be arranged as required by the claims. Applicant thus respectfully submits that the rejection of claims 1-4, 7-8, 11 should be withdrawn.

Referring now to claims 25-29, Applicant has amended claim 25 herein to recite in part “...means for supporting the support shaft in a sliding manner, and said means for supporting interfacing with the housing, wherein the upper body is capable of being positioned at any of a range of angles relative to the housing due to a frictional relationship defined by the means for supporting and the support shaft.” Support for this amendment can be found in the application at, for example, Figures 4-6 and the associated discussion. In contrast, the Examiner has not shown that *Miyasaka* or any other reference teaches or suggests the aforementioned limitations in combination with the other limitations of claim 25.

The rejection of claim 25 is problematic for other reasons as well. For example, the Examiner has completely failed to specify which element(s) of *Miyasaka* are purported to correspond with the various “means” elements recited in claim 25. Instead, the Examiner has relied on nothing more than a single vague reference to Figure 2 of *Miyasaka*. See *Final Office Action* at 3-4. In this regard, Applicant notes that the Examiner has failed to comply with the examination guidelines at least because “In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the Applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” 37 *CFR* 1.104. *Emphasis added.* Moreover, “[t]he goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” *MPEP* § 706.

In view of the foregoing, Applicant submits that the Examiner has failed to establish that *Miyasaka* anticipates claims 25-29 at least because the Examiner has not shown that the identical invention is shown in as complete detail in *Miyasaka* is contained in the claims, and because the Examiner has not shown that the elements must be arranged as required by the claims. Applicant thus respectfully submits that the rejection of claims 25-29 should be withdrawn.

B. Rejection Under 35 U.S.C. § 103

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP § 2143*.

Turning now to the rejections, the Examiner has rejected claims 5, 10, and 30-31 under as being unpatentable over *Miyasaka* in view of US 2,148,014 to Clements ("*Clements*"). The Examiner has also rejected claims 9 and 32-33 as being unpatentable over *Miyasaka* in view of US 6,563,598 to Johnson et al. ("*Johnson*"). Applicant respectfully disagrees and submits that for at least the reasons set forth below, the rejection should be withdrawn.

As noted above, the Examiner has failed to establish that *Miyasaka* anticipates claim 1. Insofar as the rejection of claims 5, 9 and 10 is based on the characterization of *Miyasaka* advanced by the Examiner in connection with the rejection of claim 1, the rejection of claims 5, 9 and 10 is not well taken and should accordingly be withdrawn.

As noted above, the Examiner has failed to establish that *Miyasaka* anticipates claim 25. Insofar as claims 30-33 require all the limitations of claim 25, the rejection of claims 30-33 is not well taken and should accordingly be withdrawn.

III. New Claims 34-36

By this paper, Applicant has added new claims 34 and 35, each of which depends from claim 1. Support for new claims 34 and 35 can be found in the application at Figure 4-7 for example. Claims 34 and 35 are believed to be in allowable condition at least by virtue of their dependence from claim 1. New independent claim 36 finds support in the specification at Figures 4-6 for example.

CONCLUSION

In view of the amendments and remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-5, 7-11, and 34-36 is in condition for allowance. Therefore, reconsideration of the objections and rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 17th day of December, 2007.

Respectfully submitted,

/Peter F. Malen, Jr./Reg.# 45576

Peter F. Malen Jr.
Registration No. 45,576
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800

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